

ESTTA Tracking number: **ESTTA28657**

Filing date: **03/21/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

### **Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

#### **Opposer Information**

<b>Name</b>	Estee Lauder Inc.
<b>Granted to Date of previous extension</b>	03/20/2005
<b>Address</b>	767 Fifth Avenue New York, NY 10153 UNITED STATES

<b>Attorney information</b>	Lesley A. Moradian Estee Lauder Inc. 767 Fifth Avenue New York, NY 10153 UNITED STATES dcarresi@estee.com Phone:212-572-6798
-----------------------------	---

#### **Applicant Information**

<b>Application No</b>	78315278	<b>Publication date</b>	09/21/2004
<b>Opposition Filing Date</b>	03/21/2005	<b>Opposition Period Ends</b>	03/20/2005
<b>Applicant</b>	Procter & Gamble Company, The One Procter & Gamble Plaza Cincinnati, OH 45202		

	UNITED STATES
--	---------------

### **Goods/Services Affected by Opposition**

<p>Class 003.</p> <p>All goods and services in the class are opposed, namely: Non-medicated skin care preparations, namely, bar soap and body wash</p>
--

<b>Attachments</b>	LinenFresh-Not-Opp.pdf ( 3 pages )
--------------------	------------------------------------

<b>Signature</b>	/Lesley A. Moradian/
<b>Name</b>	Lesley A. Moradian
<b>Date</b>	03/21/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 78/315,278 for the mark LINEN FRESH filed on October 17, 2003, and  
published September 21, 2004

ESTEE LAUDER INC.	:	
	:	
Opposer	:	
	:	
v.	:	Opp. No. _____
	:	
THE PROCTER & GAMBLE COMPANY	:	
	:	
Applicant	:	

NOTICE OF OPPOSITION

Estee Lauder Inc., a Delaware corporation, having a business address of 767 Fifth Avenue, New York, New York 10153 believes that it will be damaged by the registration of the above-identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all right, title and interest in and to the mark WHITE LINEN for a variety of goods in International Class 3 namely, perfume, cologne and toilet water. Said mark is the subject of an incontestable registration in the United States Patent and Trademark Office as Registration 1,102,705.

2. Opposer is the owner of all right, title and interest in and to the mark WHITE LINEN BREEZE for a variety of goods in International Class 3 namely, cologne, perfume, body lotion, body powders, bath gels, skin and body soaps. Said mark is the subject of an

incontestable registration in the United States Patent and Trademark Office as Registration 2,122,099.

2. Opposer's marks are famous marks under Section 43 of the Trademark Act of 1946, 15 U.S.C. § 1125(c).

3. Opposer's registrations are valid, subsisting and incontestable. The registrations are conclusive evidence of Opposer's ownership of the marks and of its exclusive right to use the marks in commerce.

4. The aforementioned registrations also provides constructive notice of Opposer's claim of ownership.

5. Since long prior to the date of the filing of Applicant's application, Opposer has used its marks in interstate commerce on and in connection with the goods identified in the registrations and such use has been widely publicized throughout the United States and internationally.

6. Notwithstanding Opposer's prior established rights in its famous marks, Applicant has applied to register the highly similar mark LINEN FRESH for highly related, if not identical, goods namely "bar soap and body wash".

7. Upon information and belief, Applicant made no use of its alleged mark in commerce prior to the filing date of its application.

8. The mark that Applicant seeks to register so resembles Opposer's marks that use and registration thereof is likely to cause confusion, mistake and/or deception as to the source or

origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation it has established in its marks.

9. The goods of Opposer and Applicant are so closely related that the public is likely to be confused and to assume erroneously that Applicant's goods are the goods of Opposer or that Applicant is in some way connected with and/or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

10. The mark that Applicant seeks to register so resembles Opposer's famous marks that use and registration thereof shall cause dilution of the distinctive quality of Opposer's famous marks to Opposer's irreparable damage.

11. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's mark and registration of the mark should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

ESTEE LAUDER INC.

Dated: March 21, 2004  
New York, N.Y.

By \_\_\_\_\_  
Lesley A. Moradian, Esq.  
Rita M. Odin, Esq.  
Trademark Counsel  
c/o The Estee Lauder Companies Inc.  
Legal Department (46<sup>th</sup> Floor)  
767 Fifth Avenue  
New York, New York 10153  
Tel: (212) 572-6798  
Counsel for Opposer